

# SixTen and Associates

## Mandate Reimbursement Services

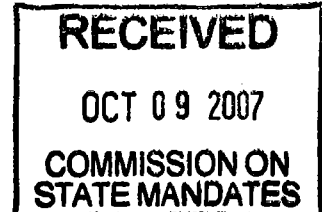
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KEITH B. PETERSEN, MPA, JD, President  
E-Mail: Kbpsixten@aol.com

**San Diego**  
5252 Balboa Avenue, Suite 900  
San Diego, CA 92117  
Telephone: (858) 514-8605  
Fax: (858) 514-8645

**Sacramento**  
3841 North Freeway Blvd., Suite 170  
Sacramento, CA 95834  
Telephone: (916) 565-6104  
Fax: (916) 564-6103

October 5, 2007



Paula Higashi, Executive Director  
Commission on State Mandates  
U.S. Bank Plaza Building  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Re: CSM. 01-TC -22  
Academic Performance Index

Dear Ms. Higashi:

Please find enclosed a supplement to the test claim filing, specifically, a history of the Title 5, CCR, sections included in the test claim.

Sincerely,

A handwritten signature in black ink, appearing to be "KB Petersen".

Keith B. Petersen

1 Keith B. Petersen  
2 SixTen and Associates  
3 3841 North Freeway Blvd, Suite 170  
4 Sacramento, CA 95834  
5 Voice: (916) 565-6104  
6 Fax: (916) 564-6103  
7 kbpsixten@aol.com

8 BEFORE THE  
9 COMMISSION ON STATE MANDATES  
10 STATE OF CALIFORNIA

11	<b>Supplement to the:</b>	)	No. CSM. 01-TC -22
12		)	
13	Test Claim Filed June 28, 2002	)	<u>Academic Performance Index</u>
14		)	
15		)	History Index for
16		)	Title 5, California Code of Regulations
17	by San Juan Unified School District	)	
18		)	Sections 1031 through 1039
19	_____	)	

20 REQUEST FOR SUPPLEMENTAL INFORMATION

21 This supplement to the test claim provides an index and copy of each change to  
22 the Title 5, CCR, sections included in the test claim. The Registers cited are attached  
23 as Exhibit A. Amended language is underlined (new language) or stricken out (deleted  
24 language).

25 HISTORY OF TITLE 5, CCR, SECTIONS INCLUDED IN THE TEST CLAIM

26	<b>Register 00-52</b>	Added §§ 1031-1038 as emergency regulations.
27	<b>Register 01-04</b>	Editorial correction of NOTE in § 1035.
28	<b>Register 01-05</b>	Amended:
29		§ 1032: New subsection (d)(4) and subsection renumbering.
30		§ 1033: Amendment of subsections (a)(3) and (b) and new

1		subsections (b)(1)-(5) as emergency regulations.
2		§ 1035: Amendment of subsections (d) and (g) filed as emergency
3		regulations.
4		Renumbered:
5		§ 1038: Renumbered former §1038 to § 1039 as emergency
6		regulations.
7		Added:
8		§ 1038: New section filed as emergency regulation.
9		§ 1039: New section filed as emergency regulation.
10	<b>Register 01-24</b>	Certificate of Compliance for §§ 1031 - 1039.
11		Amended:
12		§ 1031: Amendment of subsection (b).
13		§ 1032: Various amendments.
14		§ 1033: New subsection (b)(6).
15		§ 1034: Amendment of subsection (d)(3).
16		§ 1035: Various amendments.
17		§ 1036: Amendment of subsection (a).
18		§ 1038: Amendment of NOTE section.
19	<b>Register 01-31</b>	Amended:
20		§ 1032: Amendment of subsections (d)(4), (d)(6) and (h)(1) and
21		new subsection (j).
22	<b>Register 01-46</b>	Amended:

§ 1032: Amendment of section heading and new subsection (i).

**Register 02-02** Amended:

§ 1031: Amendment of subsection (b), repealer of subsection (b)(3) and amendment of NOTE section.

§ 1032: Further amendment of section and NOTE section.

§1033:Amendment of section heading and subsection (a), repealer of subsections (a)(1)-(3), redesignation and amendment of former subsection (a)(4) as subsection (b), renumbering of former subsections (b)-(b)(6) to section 1034, subsections (b)-(c) and new NOTE section.

§ 1034: Repealer of former section 1034, new subsections (a)-(a)(4)(B), and renumbering and amendment of former section 1033, subsections (b)-(b)(6) to section 1034, subsections (b)-(c).

§ 1035: Amendment of subsections (d) and (g).

§ 1036: Amendment of section heading, repealer, and new section and amendment of NOTE.

§ 1037: Amendment of section.

§ 1038: Amendment of section and NOTE.

§ 1039: Amendment of section and NOTE.

Repealed:

§ 1034

1 § 1036

2 Added:

3 § 1034

4 § 1036

5 **Subsequent Registers:** There may be changes to the regulations after the date the  
6 test claim was filed, which are not included.

7 /

8 /

9 /

10 CERTIFICATION

11 By my signature below, I hereby declare, under penalty of perjury under the laws  
12 of the State of California, that the information in this document is true and complete to  
13 the best of my own knowledge or information or belief, and that the attached regulations  
14 are true and correct copies of documents from archives of a recognized law library.

15 EXECUTED this 5 day of October 2007, at Sacramento, California

16  \_\_\_\_\_

17 FOR THE TEST CLAIMANT

18 Keith Petersen, President

19 SixTen and Associates

20 ATTACHMENT

21 Exhibit A Title 5, CCR Registers

Register 00-52

§§ 1031 - 1038

**HISTORY**

1. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 74, No. 52.
2. Repealer and new section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1022. Recording Test Scores.**

Scores for individual pupils on these tests shall not be used by school districts or teachers for individual diagnosis or placement, or as a basis for any other decisions which would affect the pupil's school experience. Scores from these tests shall not in any manner be included on a pupil's cumulative school record.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023. Security of Test Material.**

In order to afford protection to the security and reliability of the tests given pursuant to this article, all officers and employees of the district and other persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the specific content of the tests.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023.1. Practice Exercises.**

No practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1024. Responsibility of the County Superintendent of Schools.**

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
3. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1025. Related Information.**

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code and to properly analyze and evaluate the test results as required by Sections 60604.5 and 60660 of the Education Code.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

3. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1026. Reporting Test Results.**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment filed 9-27-76; effective thirtieth day thereafter (Register 76, No. 40).
3. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer filed 11-29-84; effective thirtieth day thereafter (Register 84, No. 48).

## Article 1.5. Education Improvement Incentive Program

**§ 1030. Computation of Change in a School's Performance.**

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the Education Improvement Incentive Program and whose performance in the prior fiscal year has decreased from that in the next preceding fiscal year. All schools with a 12th grade enrollment of 50 students or fewer and all continuation education schools are excluded from the computation.

(b) The formula:

(1) Subtract the school's prior year composite score on the California Assessment Program (CAP) from the current year score to compute a change score.

(2) Regress the number of students tested in CAP and the square of the number of students tested onto the change score using a standard multiple regression procedure.

(3) Using the results of the multiple regression, compute a predicted change score.

(4) Subtract the actual change score obtained by the school from the predicted change score to obtain a residual.

(5) Studentize the residual to have a mean of zero and a standard deviation of 1.

(6) Identify those schools which have a studentized residual equal to or less than minus 1.5. A studentized residual is the ratio of the residual to its standard error after the model has been fit and predicted change scores and residuals calculated. The predicted change scores are calculated from the estimated regression equation. The residuals are calculated as actual minus predicted.

(7) For those schools identified in paragraph (6) of this subsection, the incentive award for the current year shall be based on the improvement in performance between the current year and the 1983-84 fiscal year or the fiscal year in which the school first participated in the incentive program.

(c) Any school whose incentive award is adversely affected by a calculation pursuant to subdivision (b) may appeal to the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 54653.6, Education Code. Reference: Section 54653.6, Education Code.

**HISTORY**

1. New section filed 5-1-87; operative 5-31-87 (Register 87, No. 20).

## Article 1.7. Award Programs Linked to the Academic Performance Index (API)

**§ 1031. Intent of the Regulations.**

(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to

Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of these regulations is to implement the programs established by three statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certified Staff Performance Incentive Act (Education Code sections 44650 et seq.).

(3) The Academic Performance Index Schoolsite Employees Performance Bonus (Section 40, Chapter 71 of the Statutes of 2000).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New article 1.7 (sections 1031-1038) and section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1032. General Eligibility Criteria for Awards Programs Related to API Growth.

(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. An alternative accountability system will be developed for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least three subsequent years.

(c) For the purposes of these award programs, growth API means the second of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1) or (d)(2), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under the following circumstances:

(1) The local educational agency has certified that there were adult testing irregularities at the school.

(2) The local educational agency has certified that the API is not representative of the pupil population at the school.

(3) The local educational agency has certified that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) Information is made available to or obtained by the California Department of Education (department) that indicates that the integrity of the API may have been compromised. If after reviewing the information the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may in-

validate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schoolsite Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either: 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent for the 2000 API growth, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher includes the pupil's answer forms or test booklets for the nationally-normed test pursuant to Education Code section 60642 for grades 2-11 in the number of used test forms, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2 through 11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(c) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1033. Award Funding Criteria for Governor's Performance Award Program and Academic Performance Index Schoolsite Employees Performance Bonus.

(a) Schools that meet the eligibility requirements for the Governor's Performance Award Program (GPA) shall receive the per pupil award amount for each of their eligible pupils determined as follows:

(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions.

(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).

(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to the number of test-takers, less the number of pupils with testing irregularities plus the number of IEP exemptions, then



multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based.

(4) The amount allocated per pupil shall be determined on a prorata basis from the total amount of funding available in the annual State Budget.

(b) The Academic Performance Index Schoolsite Employees Performance Bonus awards shall be divided equally among school site individual employees on a full-time equivalent (FTE) basis and to the school site, using the same eligibility criteria as the GPA.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### **\$ 1034. Specific Eligibility Criteria for the Certificated Staff Performance Incentive Act.**

To be eligible to receive awards under the Certificated Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(a) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(b) All numerically significant ethnic or socioeconomically disadvantaged subgroups at a school must have improved by a minimum of two times their annual growth targets, simplified to the nearest whole number (i.e., 1.51 equals 2). However, all numerically significant ethnic or socioeconomically disadvantaged subgroups with an API of 800 or above must maintain a subgroup API of 800 or above.

(c) In addition to subdivisions (a) and (b) above, each school site shall have the required participation rate for the 2000 growth API, as calculated by the department. For the 2000 growth API, each school must show improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642.

(d) The local educational agency must complete an application on behalf of their eligible schools, which shall include:

- (1) The number of eligible schools;
- (2) Certification that the data used in the API calculations from the schools is accurate; and
- (3) A list of certificated staff in certificated positions on an FTE basis at each of the eligible schools.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652 and 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### **\$ 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.**

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) \$25,000 awards, three thousand seven hundred fifty (3,750) \$10,000 awards and up to seven thousand five hundred (7,500) \$5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 \$25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE than remain in the 1,000 FTE awards pool, all of that school site's FTE shall receive \$25,000 awards. If more than one school site has an identical score in this circumstance, all eligible FTE at each of the school site(s) shall receive \$25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive \$25,000 awards, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool of 3,750 \$10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 \$10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE than remain in the 3,750 FTE pool, all of that school site's FTE shall receive \$10,000 awards. If more than one school site has an identical score in this circumstance, all eligible FTE at the school site(s) shall receive \$10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from \$100 million, and the remainder shall be divided by \$5,000 to determine the maximum number of \$5,000 awards to be distributed. The \$5,000 awards shall be distributed in the same manner as the \$25,000 and the \$10,000 awards, with the exception that the distribution process will end when the pool of available \$5,000 awards is not sufficient to fully fund the eligible FTE of the next school or schools in line for the awards.

NOTE: Note: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### **\$ 1036. Staff Eligibility for Individual Awards.**

(a) The Academic Performance Index Schoolsite Employees Performance Bonus shall be allocated to individuals and to the school site. Funds will be distributed to the school site for those individuals who worked at the school site for the school year for which the growth API was calculated. These bonuses shall be distributed on an FTE basis to all employees assigned to the school site. Staff who were employed at a school site part-time or for less than the full school year shall have their awards pro-rated on an FTE basis, as determined by the local educational agency contract.

(b) For the purpose of the Certificated Staff Performance Incentive Act awards, "certificated staff" include those certificated staff employed at

the school site in certificated positions for the school year and certificated staff that were employed at the school site part-time or for less than the full school year for which the growth API was calculated. Except as otherwise provided through bargaining unit negotiations pursuant to Education Code section 44653, certificated staff employed at a school site part-time or for less than the full school year shall have their award allocations pro-rated on an FTE basis.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44650, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1037. Exemption from Statutory Benefits Calculations.

Academic Performance Index Schoolsite Employees Performance Bonus awards and Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1038. Use of Award Funds Allocated to School Sites.

Use of funds at the school site for the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

## Article 2. Physical Performance Testing Programs

### § 1040. Definition of "Pupil."

NOTE: Authority cited: Sections 60601 and 60603, Education Code.

#### HISTORY

1. Repealer filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

### § 1041. Required Program.

During the period of March-May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

NOTE: Authority cited: sections 33031 and 60603, Education Code. Reference: Sections 60602(c), 60603 and 60608, Education Code.

#### HISTORY

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 5-18-72; effective thirtieth day thereafter (Register 72, No. 21).

3. Amendment filed 5-11-89 and 5-15-89; operative 5-15-89 (Register 89, No. 20).

### § 1042. Recommended Program.

When adequate facilities are available, tests pursuant to this article may be given more often than once yearly.

### § 1043. Methods of Administration.

The tests shall be scored by employees of the district or the employees of the county superintendent of schools. The scoring thereof shall be in compliance with the instructions of the publisher or developer for scoring, and the scores shall be submitted to the governing board of the school district on the dates required by, and on forms prescribed or approved by, such governing board.

### § 1044. Recording Test Scores.

The district superintendent or the county superintendent of schools, as the case may be, shall require that the pupil's scores on each of the tests given him in the physical performance testing program be included in the pupil's cumulative record. This requirement may be met by maintaining the regular physical performance testing program card with the cumulative record form.

### § 1045. Responsibility of County Superintendent of Schools.

As soon as possible after the State Board of Education, pursuant to subdivision (d) of Education Code Section 60603, has designated the physical performance test to be used during the ensuing school year in any grade, the county superintendent of schools shall secure, and until the close of the school year for which the test was designated, shall keep on file for reference purposes, a specimen set of that test.

The county superintendent of schools shall provide assistance to school districts in administering, recording, and reporting results of, the test.

#### HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

### § 1046. Use of Reports.

The governing board of each school district shall use the reports of test scores submitted as required in this article for identifying physically underdeveloped pupils adapting instruction to individual needs, appraising pupil progress, adapting the physical education program to meet pupil needs and for such other purposes as may be permitted or required by law.

## Article 3. Reading Testing Programs in Grades 1, 2, and 3

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607, 60640, Education Code. Reference: Sections 60640-60644, Education Code.

#### HISTORY

1. Repealer of Article 3 (Sections 1050-1060) filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48). For prior history, see Registers 77, No. 39, 76, No. 40, 74, No. 52, 72, No. 18, 72, No. 8, 71, No. 25, 69, No. 39 and 67, No. 51.

## Article 4. Alternative Assessment Pilot Project

### § 1061. Eligibility.

NOTE: Authority cited: Sections 33031 and 60731, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

#### HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

### § 1062. Application Process.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

Register 01-04

§ 1035

multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based.

(4) The amount allocated per pupil shall be determined on a prorata basis from the total amount of funding available in the annual State Budget.

(b) The Academic Performance Index Schoolsite Employees Performance Bonus awards shall be divided equally among school site individual employees on a full-time equivalent (FTE) basis and to the school site, using the same eligibility criteria as the GPA.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1034. Specific Eligibility Criteria for the Certificated Staff Performance Incentive Act.

To be eligible to receive awards under the Certificated Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(a) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(b) All numerically significant ethnic or socioeconomically disadvantaged subgroups at a school must have improved by a minimum of two times their annual growth targets, simplified to the nearest whole number (i.e., 1.51 equals 2). However, all numerically significant ethnic or socioeconomically disadvantaged subgroups with an API of 800 or above must maintain a subgroup API of 800 or above.

(c) In addition to subdivisions (a) and (b) above, each school site shall have the required participation rate for the 2000 growth API, as calculated by the department. For the 2000 growth API, each school must show improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642.

(d) The local educational agency must complete an application on behalf of their eligible schools, which shall include:

- (1) The number of eligible schools;
- (2) Certification that the data used in the API calculations from the schools is accurate; and
- (3) A list of certificated staff in certificated positions on an FTE basis at each of the eligible schools.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652 and 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) \$25,000 awards, three thousand seven hundred fifty (3,750) \$10,000 awards and up to seven thousand five hundred (7,500) \$5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 \$25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE than remain in the 1,000 FTE awards pool, all of that school site's FTE shall receive \$25,000 awards. If more than one school site has an identical score in this circumstance, all eligible FTE at each of the school site(s) shall receive \$25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive \$25,000 awards, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool of 3,750 \$10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 \$10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE than remain in the 3,750 FTE pool, all of that school site's FTE shall receive \$10,000 awards. If more than one school site has an identical score in this circumstance, all eligible FTE at the school site(s) shall receive \$10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from \$100 million, and the remainder shall be divided by \$5,000 to determine the maximum number of \$5,000 awards to be distributed. The \$5,000 awards shall be distributed in the same manner as the \$25,000 and the \$10,000 awards, with the exception that the distribution process will end when the pool of available \$5,000 awards is not sufficient to fully fund the eligible FTE of the next school or schools in line for the awards.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

2. Editorial correction of NOTE (Register 2001, No. 4).

### § 1036. Staff Eligibility for Individual Awards.

(a) The Academic Performance Index Schoolsite Employees Performance Bonus shall be allocated to individuals and to the school site. Funds will be distributed to the school site for those individuals who worked at the school site for the school year for which the growth API was calculated. These bonuses shall be distributed on an FTE basis to all employees assigned to the school site. Staff who were employed at a school site part-time or for less than the full school year shall have their awards pro-rated on an FTE basis, as determined by the local educational agency contract.

(b) For the purpose of the Certificated Staff Performance Incentive Act awards, "certificated staff" include those certificated staff employed at

the school site in certificated positions for the school year and certificated staff that were employed at the school site part-time or for less than the full school year for which the growth API was calculated. Except as otherwise provided through bargaining unit negotiations pursuant to Education Code section 44653, certificated staff employed at a school site part-time or for less than the full school year shall have their award allocations pro-rated on an FTE basis.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44650, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1037. Exemption from Statutory Benefits Calculations.

Academic Performance Index Schoolsite Employees Performance Bonus awards and Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1038. Use of Award Funds Allocated to School Sites.

Use of funds at the school site for the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

## Article 2. Physical Performance Testing Programs

### § 1040. Definition of "Pupil."

NOTE: Authority cited: Sections 60601 and 60603, Education Code.

#### HISTORY

1. Repealer filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

### § 1041. Required Program.

During the period of March-May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

NOTE: Authority cited: sections 33031 and 60603, Education Code. Reference: Sections 60602(c), 60603 and 60608, Education Code.

#### HISTORY

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 5-18-72; effective thirtieth day thereafter (Register 72, No. 21).

3. Amendment filed 5-11-89 and 5-15-89; operative 5-15-89 (Register 89, No. 20).

### § 1042. Recommended Program.

When adequate facilities are available, tests pursuant to this article may be given more often than once yearly.

### § 1043. Methods of Administration.

The tests shall be scored by employees of the district or the employees of the county superintendent of schools. The scoring thereof shall be in compliance with the instructions of the publisher or developer for scoring, and the scores shall be submitted to the governing board of the school district on the dates required by, and on forms prescribed or approved by, such governing board.

### § 1044. Recording Test Scores.

The district superintendent or the county superintendent of schools, as the case may be, shall require that the pupil's scores on each of the tests given him in the physical performance testing program be included in the pupil's cumulative record. This requirement may be met by maintaining the regular physical performance testing program card with the cumulative record form.

### § 1045. Responsibility of County Superintendent of Schools.

As soon as possible after the State Board of Education, pursuant to subdivision (d) of Education Code Section 60603, has designated the physical performance test to be used during the ensuing school year in any grade, the county superintendent of schools shall secure, and until the close of the school year for which the test was designated, shall keep on file for reference purposes, a specimen set of that test.

The county superintendent of schools shall provide assistance to school districts in administering, recording, and reporting results of, the test.

#### HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

### § 1046. Use of Reports.

The governing board of each school district shall use the reports of test scores submitted as required in this article for identifying physically underdeveloped pupils adapting instruction to individual needs, appraising pupil progress, adapting the physical education program to meet pupil needs and for such other purposes as may be permitted or required by law.

## Article 3. Reading Testing Programs in Grades 1, 2, and 3

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607, 60640, Education Code. Reference: Sections 60640-60644, Education Code.

#### HISTORY

1. Repealer of Article 3 (Sections 1050-1060) filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48). For prior history, see Registers 77, No. 39, 76, No. 40, 74, No. 52, 72, No. 18, 72, No. 8, 71, No. 25, 69, No. 39 and 67, No. 51.

## Article 4. Alternative Assessment Pilot Project

### § 1061. Eligibility.

NOTE: Authority cited: Sections 33031 and 60731, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

#### HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

### § 1062. Application Process.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

## HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

**§ 1063. Mandatory Application Requirements and Review Process.**

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60731, 60731.5 and 60731.6, Education Code; and Statutes of 1990, Chapter 12, Section 1.

## HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).
3. Editorial correction of Authority cite (Register 95, No. 9).

**§ 1064. Quality Requirements and Review Process.**

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60731, 60731.5 and 60731.6, Education Code; and Statutes of 1990, Chapter 12, Section 1.

## HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91

or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

**§ 1065. Eligibility of Agency Providing Independent Evaluation.**

NOTE: Authority cited: Sections 33031 and 60731, Education Code. Reference: Sections 60730 and 60731.5, Education Code; and Statutes of 1990, Chapter 12, Section 1.

## HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

**§ 1066. Evaluation of Proposals to Conduct Independent Evaluation.**

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60730 and 60731.5, Education Code.

## HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

[The next page is 19.]

Register 01-05

§ 1032  
§ 1033  
§ 1035  
§ 1038  
§ 1039

**HISTORY**

1. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 74, No. 52.
2. Repealer and new section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1022. Recording Test Scores.**

Scores for individual pupils on these tests shall not be used by school districts or teachers for individual diagnosis or placement, or as a basis for any other decisions which would affect the pupil's school experience. Scores from these tests shall not in any manner be included on a pupil's cumulative school record.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023. Security of Test Material.**

In order to afford protection to the security and reliability of the tests given pursuant to this article, all officers and employees of the district and other persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the specific content of the tests.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023.1. Practice Exercises.**

No practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1024. Responsibility of the County Superintendent of Schools.**

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
3. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1025. Related Information.**

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code and to properly analyze and evaluate the test results as required by Sections 60604.5 and 60660 of the Education Code.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

3. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1026. Reporting Test Results.**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment filed 9-27-76; effective thirtieth day thereafter (Register 76, No. 40).
3. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer filed 11-29-84; effective thirtieth day thereafter (Register 84, No. 48).

## Article 1.5. Education Improvement Incentive Program

**§ 1030. Computation of Change in a School's Performance.**

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the Education Improvement Incentive Program and whose performance in the prior fiscal year has decreased from that in the next preceding fiscal year. All schools with a 12th grade enrollment of 50 students or fewer and all continuation education schools are excluded from the computation.

(b) The formula:

(1) Subtract the school's prior year composite score on the California Assessment Program (CAP) from the current year score to compute a change score.

(2) Regress the number of students tested in CAP and the square of the number of students tested onto the change score using a standard multiple regression procedure.

(3) Using the results of the multiple regression, compute a predicted change score.

(4) Subtract the actual change score obtained by the school from the predicted change score to obtain a residual.

(5) Studentize the residual to have a mean of zero and a standard deviation of 1.

(6) Identify those schools which have a studentized residual equal to or less than minus 1.5. A studentized residual is the ratio of the residual to its standard error after the model has been fit and predicted change scores and residuals calculated. The predicted change scores are calculated from the estimated regression equation. The residuals are calculated as actual minus predicted.

(7) For those schools identified in paragraph (6) of this subsection, the incentive award for the current year shall be based on the improvement in performance between the current year and the 1983-84 fiscal year or the fiscal year in which the school first participated in the incentive program.

(c) Any school whose incentive award is adversely affected by a calculation pursuant to subdivision (b) may appeal to the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 54653.6, Education Code. Reference: Section 54653.6, Education.

**HISTORY**

1. New section filed 5-1-87; operative 5-31-87 (Register 87, No. 20).

## Article 1.7. Award Programs Linked to the Academic Performance Index (API)

**§ 1031. Intent of the Regulations.**

(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to



Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of these regulations is to implement the programs established by three statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

(3) The Academic Performance Index Schoolsite Employees Performance Bonus (Section 40, Chapter 71 of the Statutes of 2000).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New article 1.7 (sections 1031-1038) and section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1032. General Eligibility Criteria for Awards Programs Related to API Growth.

(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. An alternative accountability system will be developed for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least three subsequent years.

(c) For the purposes of these award programs, growth API means the second of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1) or (d)(2), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under the following circumstances:

(1) The local educational agency has certified that there were adult testing irregularities at the school.

(2) The local educational agency has certified that the API is not representative of the pupil population at the school.

(3) The local educational agency has certified that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 14.99 percent is not 15 percent).

(5) Information is made available to or obtained by the California Department of Education (department) that indicates that the integrity of the API may have been compromised. If after reviewing the information the department determines that further investigation is warranted, the depart-

ment may conduct an investigation to determine if the integrity of the API has been jeopardized.

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schoolsite Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either: 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent for the 2000 API growth, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher includes the pupil's answer forms or test booklets for the nationally-normed test pursuant to Education Code section 60642 for grades 2-11 in the number of used test forms, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2 through 11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(c) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

2. New subsection (d)(4) and subsection renumbering filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

### § 1033. Award Funding Criteria for Governor's Performance Award Program and Academic Performance Index Schoolsite Employees Performance Bonus.

(a) Schools that meet the eligibility requirements for the Governor's Performance Award Program (GPA) shall receive the per pupil award amount for each of their eligible pupils determined as follows:

(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions.

(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).

(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to the total enrollment on the first day of testing for grades 2-11, less the number of pupils with testing irregularities, then multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based.

(4) The amount allocated per pupil shall be determined on a prorata basis from the total amount of funding available in the annual State Budget.

(b) To participate in the Academic Performance Index Schoolsite Employees Performance Bonus awards school districts, county offices of education, and charter schools shall certify the number of full-time equivalent (FTE) employees employed as of the second principal apportionment of the 1999-2000 school year at each school site under their jurisdiction that are eligible for awards in accordance with Education Code section 52057(a).

(1) The "number of full-time equivalent employees (FTE) employed as of the second principal apportionment" shall be defined as the number of funded FTE positions at the school site as of June 23, 2000.

(2) "Employees at each school site" shall be defined as positions filled by individuals employed by the school district, county office of education, or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site.

(3) "Full-time equivalent (FTE) position" shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. School districts, county offices of education, and charter schools may choose to use a longer work day in accordance with their local collective bargaining agreements. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

(4) The certification shall indicate the number of certificated and classified FTE positions at each school site. The number of certificated employees reported by the school districts, county offices of education, and charter schools shall also be used for purposes of making awards under the Certificated Staff Performance Incentive Act.

(A) "Classified employee" shall be defined as an employee not requiring certification and who meets the school site employee criteria specified in subdivision (b)(2).

(B) "Certificated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(C) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

(5) For purposes of this subdivision, the deadline for submitting the certification of FTE to the department shall be November 1, 2000 or as soon thereafter as the eligible schools are identified and no later than February 1, 2001. If certification is not received by the department by February 1, 2001, those schools will not receive either the Certificated Staff Performance Incentive Act award or the Academic Performance Index Schoolsite Employees Performance Bonus award.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

2. Amendment of subsections (a)(3) and (b) and new subsections (b)(1)-(5) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

#### § 1034. Specific Eligibility Criteria for the Certificated Staff Performance Incentive Act.

To be eligible to receive awards under the Certificated Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(a) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(b) All numerically significant ethnic or socioeconomically disadvantaged subgroups at a school must have improved by a minimum of two times their annual growth targets, simplified to the nearest whole number (i.e., 1.51 equals 2). However, all numerically significant ethnic or socioeconomically disadvantaged subgroups with an API of 800 or above must maintain a subgroup API of 800 or above.

(c) In addition to subdivisions (a) and (b) above, each school site shall have the required participation rate for the 2000 growth API, as calculated by the department. For the 2000 growth API, each school must show improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642.

(d) The local educational agency must complete an application on behalf of their eligible schools, which shall include:

(1) The number of eligible schools;

(2) Certification that the data used in the API calculations from the schools is accurate; and

(3) A list of certificated staff in certificated positions on an FTE basis at each of the eligible schools.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652 and 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

#### § 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) \$25,000 awards, three thousand seven hundred fifty (3,750) \$10,000 awards and up to seven thousand five hundred (7,500) \$5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 \$25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE than remain in the 1,000 FTE awards pool, all of that school site's FTE shall receive \$25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive \$25,000 awards.

(c) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive \$25,000 awards, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool of 3,750 \$10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 \$10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE than remain in the 3,750 FTE pool, all of that school site's FTE shall receive \$10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive \$10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from \$100 million, and the remainder shall be divided by \$5,000 to determine the maximum number of \$5,000 awards to be distributed. The \$5,000 awards shall be distributed in the same manner as the \$25,000 and the \$10,000 awards, with the exception that the distribution process will end when the pool of available \$5,000 awards is not sufficient to fully fund the eligible FTE of the next school or schools in line for the awards.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of NOTE (Register 2001, No. 4).
3. Amendment of subsections (d) and (g) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

### § 1036. Staff Eligibility for Individual Awards.

(a) The Academic Performance Index Schoolsite Employees Performance Bonus shall be allocated to individuals and to the school site. Funds will be distributed to the school site for those individuals who worked at the school site for the school year for which the growth API was calculated. These bonuses shall be distributed on an FTE basis to all employees assigned to the school site. Staff who were employed at a school site part-time or for less than the full school year shall have their awards pro-rated on an FTE basis, as determined by the local educational agency contract.

(b) For the purpose of the Certificated Staff Performance Incentive Act awards, "certificated staff" include those certificated staff employed at the school site in certificated positions for the school year and certificated staff that were employed at the school site part-time or for less than the full school year for which the growth API was calculated. Except as otherwise provided through bargaining unit negotiations pursuant to Education Code section 44653, certificated staff employed at a school

site part-time or for less than the full school year shall have their award allocations pro-rated on an FTE basis.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44650, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1037. Exemption from Statutory Benefits Calculations.

Academic Performance Index Schoolsite Employees Performance Bonus awards and Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

### § 1038. Exemption from Indirect Costs.

Governor's Performance Awards, Academic Performance Index Schoolsite Employees Performance Bonus awards, and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b) and 52052, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 1038 to section 1039 and new section 1038 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

### § 1039. Use of Award Funds Allocated to School Sites.

Use of funds at the school site for the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. Renumbering of former section 1038 to section 1039 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

## Article 2. Physical Performance Testing Programs

### § 1040. Definition of "Pupil."

NOTE: Authority cited: Sections 60601 and 60603, Education Code.

#### HISTORY

1. Repealer filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

### § 1041. Required Program.

During the period of March-May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Register 01-24

§§ 1031-1039

**HISTORY**

NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 48).  
 or history see Register 74, No. 52.  
 and new section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**Recording Test Scores.**

Individual pupils on these tests shall not be used by school teachers for individual diagnosis or placement, or as a basis for decisions which would affect the pupil's school experience. These tests shall not in any manner be included on a pupil's school record.

**HISTORY**

Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**Security of Test Material.**

To afford protection to the security and reliability of the tests relevant to this article, all officers and employees of the district and persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the content of the tests.

**HISTORY**

Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**Practice Exercises.**

Practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

Section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**Responsibility of the County Superintendent of Schools.**

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 48).

Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 48).

Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**Related Information.**

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 33 of Division 4 of Title 2 of the Education Code and to properly receive and evaluate the test results as required by Sections 60604.5 and 60605 of the Education Code.

Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

Section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

3. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1026. Reporting Test Results.**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

2. Amendment filed 9-27-76; effective thirtieth day thereafter (Register 76, No. 40).

3. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

4. Repealer filed 11-29-84; effective thirtieth day thereafter (Register 84, No. 48).

**Article 1.5. Education Improvement Incentive Program****§ 1030. Computation of Change in a School's Performance.**

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the Education Improvement Incentive Program and whose performance in the prior fiscal year has decreased from that in the next preceding fiscal year. All schools with a 12th grade enrollment of 50 students or fewer and all continuation education schools are excluded from the computation.

(b) The formula:

(1) Subtract the school's prior year composite score on the California Assessment Program (CAP) from the current year score to compute a change score.

(2) Regress the number of students tested in CAP and the square of the number of students tested onto the change score using a standard multiple regression procedure.

(3) Using the results of the multiple regression, compute a predicted change score.

(4) Subtract the actual change score obtained by the school from the predicted change score to obtain a residual.

(5) Studentize the residual to have a mean of zero and a standard deviation of 1.

(6) Identify those schools which have a studentized residual equal to or less than minus 1.5. A studentized residual is the ratio of the residual to its standard error after the model has been fit and predicted change scores and residuals calculated. The predicted change scores are calculated from the estimated regression equation. The residuals are calculated as actual minus predicted.

(7) For those schools identified in paragraph (6) of this subsection, the incentive award for the current year shall be based on the improvement in performance between the current year and the 1983-84 fiscal year or the fiscal year in which the school first participated in the incentive program.

(c) Any school whose incentive award is adversely affected by a calculation pursuant to subdivision (b) may appeal to the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 54653.6, Education Code. Reference: Section 54653.6, Education Code.

**HISTORY**

1. New section filed 5-1-87; operative 5-31-87 (Register 87, No. 20).

**Article 1.7. Award Programs Linked to the Academic Performance Index (API)****§ 1031. Intent of the Regulations.**

(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to

Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of Article 1.7 is to implement the programs established by three statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

(3) The Academic Performance Index Schoolsite Employees Performance Bonus (Section 40, Chapter 71 of the Statutes of 2000).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New article 1.7 (sections 1031-1038) and section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (b), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1032. General Eligibility Criteria for Awards Programs Related to API Growth.

(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least the three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1), (d)(2), or (d)(4), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school.

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR, the school's proportion of

parental waivers compared to its STAR enrollment is equal to or greater than 10 percent. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 14.99 percent is not 15 percent).

(5) Information is made available to or obtained by the department that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(6) The minimum participation in each content area tested pursuant to Education Code section 60642 for grades 2-11 is less than 85 percent of the school participation rate as defined by Section 1032(h)(3) multiplied by the total number of test-takers. There shall be no rounding in determining the minimum participation in each content area tested.

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 or more and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schoolsite Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either: 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher includes the pupil's answer forms or test booklets for the nationally-normed test pursuant to Education Code section 60642 for grades 2-11 at the school in the number of used test forms, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2-11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by

- 4-27-2001 or emergency language will be repealed by operation of law on the following day.
- New subsection (d)(4) and subsection renumbering filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
- Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including further amendments, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

**§ 1033. Award Funding Criteria for Governor's Performance Award Program and Academic Performance Index Schools Site Employees Performance Bonus.**

(a) Schools that meet the eligibility requirements for the Governor's Performance Award Program (GPA) shall receive the per pupil award amount for each of their eligible pupils determined as follows:

(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions.

(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).

(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to the total enrollment on the first day of testing for grades 2-11, less the number of pupils with testing irregularities, then multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based.

(4) The amount allocated per pupil shall be determined on a prorata basis from the total amount of funding available in the annual State Budget.

(b) To participate in the Academic Performance Index Schools Site Employees Performance Bonus awards school districts, county offices of education, and charter schools shall certify the number of full-time equivalent (FTE) employees employed as of the second principal apportionment of the 1999-2000 school year at each school site under their jurisdiction that are eligible for awards in accordance with Education Code section 52057(a).

(1) The "number of full-time equivalent employees (FTE) employed as of the second principal apportionment" shall be defined as the number of funded FTE positions at the school site as of June 23, 2000.

(2) "Employees at each school site" shall be defined as positions filled by individuals employed by the school district, county office of education, or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site.

(3) "Full-time equivalent (FTE) position" shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. School districts, county offices of education, and charter schools may choose to use a longer work day in accordance with their local collective bargaining agreements. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

(4) The certification shall indicate the number of certificated and classified FTE positions at each school site. The number of certificated employees reported by the school districts, county offices of education, and charter schools shall also be used for purposes of making awards under the Certificated Staff Performance Incentive Act.

(A) "Classified employee" shall be defined as an employee not requiring certification and who meets the school site employee criteria specified in subdivision (b)(2).

(B) "Certificated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(C) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

(5) For purposes of this subdivision, the deadline for submitting the certification of FTE to the department shall be November 1, 2000 or as soon thereafter as the eligible schools are identified and no later than February 1, 2001. If certification is not received by the department by February 1, 2001, those schools will not receive either the Certificated Staff Performance Incentive Act award or the Academic Performance Index Schools Site Employees Performance Bonus award.

(6) Starting with STAR 2001 testing, the deadline for submitting the certification of FTEs to the department shall be within 90 days of the department's posting on the website of the certified list of schools eligible to receive the Governor's Performance Award. If the schools' certification is not received by the department by the deadline, the schools will not receive the Certificated Staff Performance Incentive Act award.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

**HISTORY**

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (a)(3) and (b) and new subsections (b)(1)-(5) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including new subsection (b)(6), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

**§ 1034. Specific Eligibility Criteria for the Certificated Staff Performance Incentive Act.**

To be eligible to receive awards under the Certificated Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(a) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(b) All numerically significant ethnic or socioeconomically disadvantaged subgroups at a school must have improved by a minimum of two times their annual growth targets, simplified to the nearest whole number (i.e., 1.51 equals 2). However, all numerically significant ethnic or socioeconomically disadvantaged subgroups with an API of 800 or above must maintain a subgroup API of 800 or above.

(c) In addition to subdivisions (a) and (b) above, each school site shall have the required participation rate for the 2000 growth API, as calculated by the department. For the 2000 growth API, each school must show improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642.

(d) The local educational agency must complete an application on behalf of their eligible schools, which shall include:

(1) The number of eligible schools;

(2) Certification that the data used in the API calculations from the schools is accurate; and

(3) A list of certificated positions on an FTE basis at each of the eligible schools.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652 and 44654(b), Education Code.

**HISTORY**

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (d)(3), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).



### § 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) \$25,000 awards, three thousand seven hundred fifty (3,750) \$10,000 awards and up to seven thousand five hundred (7,500) \$5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE positions counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 \$25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 1,000 FTE awards pool, all of that school site's FTE positions shall receive \$25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive \$25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive \$25,000 rewards, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool of 3,750 \$10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 \$10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 3,750 FTE pool, all of that school site's FTE positions shall receive \$10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive \$10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from \$100 million, and the remainder shall be divided by \$5,000 to determine the maximum number of \$5,000 awards to be distributed. The \$5,000 awards shall be distributed in the same manner as the \$25,000 and the \$10,000 awards, with the exception that the distribution process will end when the pool of available \$5,000 awards is not

sufficient to fully fund the eligible FTE positions of the next school or schools in line for the awards.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of NOTE (Register 2001, No. 4).
3. Amendment of subsections (d) and (g) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including further amendments, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1036. Staff Eligibility for Individual Awards.

(a) The Academic Performance Index Schoolsite Employees Performance Bonus shall be allocated to individuals and to the school site. Funds shall be distributed to the school site for those individuals who worked at the school site for the school year for which the growth API was calculated. These bonuses shall be distributed on an FTE basis to employees assigned to the school site. Staff who were employed at a school site part-time or for less than the full school year shall have their awards pro-rated on a per FTE basis, as determined by the local educational agency contract.

(b) For the purpose of the Certificated Staff Performance Incentive Act awards, "certificated staff" include those certificated staff employed at the school site in certificated positions for the school year and certificated staff that were employed at the school site part-time or for less than the full school year for which the growth API was calculated. Except as otherwise provided through bargaining unit negotiations pursuant to Education Code section 44653, certificated staff employed at a school site part-time or for less than the full school year shall have their award allocations pro-rated on an FTE basis.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44650, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (a), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1037. Exemption from Statutory Benefits Calculations.

Academic Performance Index Schoolsite Employees Performance Bonus awards and Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1038. Exemption from Indirect Costs.

Governor's Performance Awards, Academic Performance Index Schoolsite Employees Performance Bonus awards, and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges.



Authority cited: Sections 33031, 446 (a) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 1-27-2001 or emergency language will be repealed by operation of law on the following day.

Renumbering of former section 1038 to section 1039 and new section 1038 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including Amendment of NOTE, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

#### § 1039. Use of Award Funds Allocated to School Sites.

Use of funds at the school site for the Governor's Performance Award program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

Renumbering of former section 1038 to section 1039 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

Certificate of Compliance as to 1-30-2001 order transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### Article 2. Physical Performance Testing Programs

#### § 1040. Definition of "Pupil."

NOTE: Authority cited: Sections 60601 and 60603, Education Code.

#### HISTORY

Repealer filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).

New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

#### § 1041. Required Program.

During the period of March-May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

Authority cited: sections 33031 and 60603, Education Code. Reference: Sections 60602(c), 60603 and 60608, Education Code.

#### HISTORY

Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).

Amendment filed 5-18-72; effective thirtieth day thereafter (Register 72, No. 24).

Amendment filed 5-11-89 and 5-15-89; operative 5-15-89 (Register 89, No. 20).

#### § 1042. Recommended Program.

When adequate facilities are available, tests pursuant to this article may be given more often than once yearly.

#### § 1043. Methods of Administration.

The tests shall be scored by employees of the district or the employees of the county superintendent of schools. The scoring thereof shall be in compliance with the instructions of the publisher or developer for scoring, and the scores shall be submitted to the governing board of the school district on the dates required by, and on forms prescribed or approved by, the governing board.

#### § 1044. Recording Test Scores.

The district superintendent or the county superintendent of schools, as the case may be, shall require that the pupil's scores on each of the tests given him in the physical performance testing program be included in the pupil's cumulative record. This requirement may be met by maintaining the regular physical performance testing program card with the cumulative record form.

#### § 1045. Responsibility of County Superintendent of Schools.

As soon as possible after the State Board of Education, pursuant to subdivision (d) of Education Code Section 60603, has designated the physical performance test to be used during the ensuing school year in any grade, the county superintendent of schools shall secure, and until the close of the school year for which the test was designated, shall keep on file for reference purposes, a specimen set of that test.

The county superintendent of schools shall provide assistance to school districts in administering, recording, and reporting results of, the test.

#### HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

#### § 1046. Use of Reports.

The governing board of each school district shall use the reports of test scores submitted as required in this article for identifying physically underdeveloped pupils adapting instruction to individual needs, appraising pupil progress, adapting the physical education program to meet pupil needs and for such other purposes as may be permitted or required by law.

### Article 3. Reading Testing Programs in Grades 1, 2, and 3

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607, 60640, Education Code. Reference: Sections 60640-60644, Education Code.

#### HISTORY

1. Repealer of Article 3 (Sections 1050-1060) filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48). For prior history, see Registers 77, No. 39, 76, No. 40, 74, No. 52, 72, No. 18, 72, No. 8, 71, No. 25, 69, No. 39 and 67, No. 51.

### Article 4. Alternative Assessment Pilot Project

#### § 1061. Eligibility.

NOTE: Authority cited: Sections 33031 and 60731, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

#### HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

#### § 1062. Application Process.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

#### HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

#### § 1063. Mandatory Application Requirements and Review Process.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60731, 60731.5 and 60731.6, Education Code; and Statutes of 1990, Chapter 12, Section 1.

#### HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91

Register 01-31

§ 1032

**HISTORY**

1. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 74, No. 52.
2. Repealer and new section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1022. Recording Test Scores.**

Scores for individual pupils on these tests shall not be used by school districts or teachers for individual diagnosis or placement, or as a basis for any other decisions which would affect the pupil's school experience. Scores from these tests shall not in any manner be included on a pupil's cumulative school record.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023. Security of Test Material.**

In order to afford protection to the security and reliability of the tests given pursuant to this article, all officers and employees of the district and other persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the specific content of the tests.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023.1. Practice Exercises.**

No practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1024. Responsibility of the County Superintendent of Schools.**

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
3. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1025. Related Information.**

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code and to properly analyze and evaluate the test results as required by Sections 60604.5 and 60660 of the Education Code.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

3. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1026. Reporting Test Results.**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment filed 9-27-76; effective thirtieth day thereafter (Register 76, No. 40).
3. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer filed 11-29-84; effective thirtieth day thereafter (Register 84, No. 48).

## Article 1.5. Education Improvement Incentive Program

**§ 1030. Computation of Change in a School's Performance.**

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the Education Improvement Incentive Program and whose performance in the prior fiscal year has decreased from that in the next preceding fiscal year. All schools with a 12th grade enrollment of 50 students or fewer and all continuation education schools are excluded from the computation.

(b) The formula:

(1) Subtract the school's prior year composite score on the California Assessment Program (CAP) from the current year score to compute a change score.

(2) Regress the number of students tested in CAP and the square of the number of students tested onto the change score using a standard multiple regression procedure.

(3) Using the results of the multiple regression, compute a predicted change score.

(4) Subtract the actual change score obtained by the school from the predicted change score to obtain a residual.

(5) Studentize the residual to have a mean of zero and a standard deviation of 1.

(6) Identify those schools which have a studentized residual equal to or less than minus 1.5. A studentized residual is the ratio of the residual to its standard error after the model has been fit and predicted change scores and residuals calculated. The predicted change scores are calculated from the estimated regression equation. The residuals are calculated as actual minus predicted.

(7) For those schools identified in paragraph (6) of this subsection, the incentive award for the current year shall be based on the improvement in performance between the current year and the 1983-84 fiscal year or the fiscal year in which the school first participated in the incentive program.

(c) Any school whose incentive award is adversely affected by a calculation pursuant to subdivision (b) may appeal to the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 54653.6, Education Code. Reference: Section 54653.6, Education Code.

**HISTORY**

1. New section filed 5-1-87; operative 5-31-87 (Register 87, No. 20).

## Article 1.7. Award Programs Linked to the Academic Performance Index (API)

**§ 1031. Intent of the Regulations.**

(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to

Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of Article 1.7 is to implement the programs established by three statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

(3) The Academic Performance Index Schools Site Employees Performance Bonus (Section 40, Chapter 71 of the Statutes of 2000).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code; Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New article 1.7 (sections 1031-1038) and section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (b), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1032. General Eligibility Criteria for Awards Programs Related to API Growth.

(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least the three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1), (d)(2), or (d)(4), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school.

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR and each subsequent STAR, the school's proportion of parental waivers compared to its STAR enrollment

is equal to or greater than 10 percent, except when the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent but less than 20 percent. In this case, the department will conduct standard statistical tests to determine whether the pupils tested at the school represent the school's pupils by grade level. If the standard statistical tests demonstrate that the pupils tested represent the school's pupils, then the school's API shall be considered valid. If the standard statistical tests demonstrate that the pupils tested do not represent the school's pupils, then the school's API shall be considered invalid. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 9.99 percent is not 10 percent).

(5) Information is made available to or obtained by the department that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(6) In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test-takers in that content area compared with the total number of test-takers is less than 85 percent. There shall be no rounding in determining the proportion of test-takers in each content area (i.e., 84.99 percent is not 85 percent).

(c) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 or more and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schools Site Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either: 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher determines, for grades 2 to 11, that a pupil did attempt to take any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2-11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(c) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API.

although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

(i) (Reserved)

(j) A school that had its 2000 API invalidated solely because of excessive parental waivers (subdivision (d)(4)) will be eligible for the Governor's Performance Awards based on the 2001 growth API if the school and all of its numerically significant subgroups achieve twice the growth targets associated with the school's 1999 base API and the school has met all other 2001 eligibility criteria. While being eligible for the Governor's Performance Awards, such a school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code; Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. New subsection (d)(4) and subsection renumbering filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including further amendments, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
4. Amendment of subsections (d)(4), (d)(6) and (h)(1) and new subsection (j) filed 8-2-2001 as an emergency; operative 8-2-2001 (Register 2001, No. 31). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 or emergency language will be repealed by operation of law on the following day.

### § 1033. Award Funding Criteria for Governor's Performance Award Program and Academic Performance Index Schools Site Employees Performance Bonus.

(a) Schools that meet the eligibility requirements for the Governor's Performance Award Program (GPA) shall receive the per pupil award amount for each of their eligible pupils determined as follows:

(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions.

(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).

(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to the total enrollment on the first day of testing for grades 2-11, less the number of pupils with testing irregularities, then multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based.

(4) The amount allocated per pupil shall be determined on a prorata basis from the total amount of funding available in the annual State Budget.

(b) To participate in the Academic Performance Index Schools Site Employees Performance Bonus awards school districts, county offices of education, and charter schools shall certify the number of full-time equivalent (FTE) employees employed as of the second principal apportionment of the 1999-2000 school year at each school site under their jurisdiction that are eligible for awards in accordance with Education Code section 52057(a).

(1) The "number of full-time equivalent employees (FTE) employed as of the second principal apportionment" shall be defined as the number of funded FTE positions at the school site as of June 23, 2000.

(2) "Employees at each school site" shall be defined as positions filled by individuals employed by the school district, county office of education, or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual

work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site.

(3) "Full-time equivalent (FTE) position" shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. School districts, county offices of education, and charter schools may choose to use a longer work day in accordance with their local collective bargaining agreements. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

(4) The certification shall indicate the number of certificated and classified FTE positions at each school site. The number of certificated employees reported by the school districts, county offices of education, and charter schools shall also be used for purposes of making awards under the Certificated Staff Performance Incentive Act.

(A) "Classified employee" shall be defined as an employee not requiring certification and who meets the school site employee criteria specified in subdivision (b)(2).

(B) "Certificated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(C) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

(5) For purposes of this subdivision, the deadline for submitting the certification of FTE to the department shall be November 1, 2000 or as soon thereafter as the eligible schools are identified and no later than February 1, 2001. If certification is not received by the department by February 1, 2001, those schools will not receive either the Certificated Staff Performance Incentive Act award or the Academic Performance Index Schools Site Employees Performance Bonus award.

(6) Starting with STAR 2001 testing, the deadline for submitting the certification of FTEs to the department shall be within 90 days of the department's posting on the website of the certified list of schools eligible to receive the Governor's Performance Award. If the schools' certification is not received by the department by the deadline, the schools will not receive the Certificated Staff Performance Incentive Act award.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code; Reference: Section 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (a)(3) and (b) and new subsections (b)(1)-(5) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including new subsection (b)(6), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1034. Specific Eligibility Criteria for the Certificated Staff Performance Incentive Act.

To be eligible to receive awards under the Certificated Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(a) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(b) All numerically significant ethnic or socioeconomically disadvantaged subgroups at a school must have improved by a minimum of two times their annual growth targets, simplified to the nearest whole number (i.e., 1.51 equals 2). However, all numerically significant ethnic or socioeconomically disadvantaged subgroups with an API of 800 or above must maintain a subgroup API of 800 or above.

(c) In addition to subdivisions (a) and (b) above, each school site shall have the required participation rate for the 2000 growth API, as calculated by the department. For the 2000 growth API, each school must show improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642.

(d) The local educational agency must complete an application on behalf of their eligible schools, which shall include:

- (1) The number of eligible schools;
- (2) Certification that the data used in the API calculations from the schools is accurate; and
- (3) A list of certificated positions on an FTE basis at each of the eligible schools.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650, 44652 and 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (d)(3), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) \$25,000 awards, three thousand seven hundred fifty (3,750) \$10,000 awards and up to seven thousand five hundred (7,500) \$5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE positions counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 \$25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 1,000 FTE awards pool, all of that school site's FTE positions shall receive \$25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive \$25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive \$25,000 awards, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool of 3,750 \$10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 \$10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 3,750 FTE pool, all of that school site's FTE positions shall receive \$10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive \$10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from \$100 million, and the remainder shall be divided by \$5,000 to determine the maximum number of \$5,000 awards to be distributed. The \$5,000 awards shall be distributed in the same manner as the \$25,000 and the \$10,000 awards, with the exception that the distribution process will end when the pool of available \$5,000 awards is not sufficient to fully fund the eligible FTE positions of the next school or schools in line for the awards.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of NOTE: (Register 2001, No. 4).
3. Amendment of subsections (d) and (g) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including further amendments, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1036. Staff Eligibility for Individual Awards.

(a) The Academic Performance Index Schoolsite Employees Performance Bonus shall be allocated to individuals and to the school site. Funds shall be distributed to the school site for those individuals who worked at the school site for the school year for which the growth API was calculated. These bonuses shall be distributed on an FTE basis to employees assigned to the school site. Staff who were employed at a school site part-time or for less than the full school year shall have their awards pro-rated on a per FTE basis, as determined by the local educational agency contract.

(b) For the purpose of the Certificated Staff Performance Incentive Act awards, "certificated staff" include those certificated staff employed at the school site in certificated positions for the school year and certificated staff that were employed at the school site part-time or for less than the full school year for which the growth API was calculated. Except as otherwise provided through bargaining unit negotiations pursuant to Education Code section 44653, certificated staff employed at a school site part-time or for less than the full school year shall have their award allocations pro-rated on an FTE basis.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44650, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (a), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

**§ 1037. Exemption from Statutory Benefits Calculations.**

Academic Performance Index Schoolsite Employees Performance Bonus awards and Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

**HISTORY**

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

**§ 1038. Exemption from Indirect Costs.**

Governor's Performance Awards, Academic Performance Index Schoolsite Employees Performance Bonus awards, and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

**HISTORY**

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 1038 to section 1039 and new section 1038 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including amendment of NOTE, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

**§ 1039. Use of Award Funds Allocated to School Sites.**

Use of funds at the school site for the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 40, Chapter 71 of the Statutes of 2000.

**HISTORY**

1. Renumbering of former section 1038 to section 1039 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-30-2001 order transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

## Article 2. Physical Performance Testing Programs

**§ 1040. Definition of "Pupil."**

NOTE: Authority cited: Sections 60601 and 60603, Education Code.

**HISTORY**

1. Repealer filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

**§ 1041. Required Program.**

During the period of March-May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

NOTE: Authority cited: sections 33031 and 60603, Education Code. Reference: Sections 60602(c), 60603 and 60608, Education Code.

**HISTORY**

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 5-18-72; effective thirtieth day thereafter (Register 72, No. 21).
3. Amendment filed 5-11-89 and 5-15-89; operative 5-15-89 (Register 89, No. 20).

**§ 1042. Recommended Program.**

When adequate facilities are available, tests pursuant to this article may be given more often than once yearly.

**§ 1043. Methods of Administration.**

The tests shall be scored by employees of the district or the employees of the county superintendent of schools. The scoring thereof shall be in compliance with the instructions of the publisher or developer for scoring, and the scores shall be submitted to the governing board of the school district on the dates required by, and on forms prescribed or approved by, such governing board.

**§ 1044. Recording Test Scores.**

The district superintendent or the county superintendent of schools, as the case may be, shall require that the pupil's scores on each of the tests given him in the physical performance testing program be included in the pupil's cumulative record. This requirement may be met by maintaining the regular physical performance testing program card with the cumulative record form.

**§ 1045. Responsibility of County Superintendent of Schools.**

As soon as possible after the State Board of Education, pursuant to subdivision (d) of Education Code Section 60603, has designated the physical performance test to be used during the ensuing school year in any grade, the county superintendent of schools shall secure, and until the close of the school year for which the test was designated, shall keep on file for reference purposes, a specimen set of that test.

The county superintendent of schools shall provide assistance to school districts in administering, recording, and reporting results of, the test.

**HISTORY**

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

**§ 1046. Use of Reports.**

The governing board of each school district shall use the reports of test scores submitted as required in this article for identifying physically underdeveloped pupils adapting instruction to individual needs, appraising pupil progress, adapting the physical education program to meet pupil needs and for such other purposes as may be permitted or required by law.

## Article 3. Reading Testing Programs in Grades 1, 2, and 3

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607, 60640, Education Code. Reference: Sections 60640-60644, Education Code.

**HISTORY**

1. Repealer of Article 3 (Sections 1050-1060) filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48). For prior history, see Registers 77, No. 39, 76, No. 40, 74, No. 52, 72, No. 18, 72, No. 8, 71, No. 25, 69, No. 39 and 67, No. 51.

## Article 4. Alternative Assessment Pilot Project

**§ 1061. Eligibility.**

NOTE: Authority cited: Sections 33031 and 60731, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

Register 01-46

§ 1032



**HISTORY**

1. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 74, No. 52.
2. Repealer and new section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1022. Recording Test Scores.**

Scores for individual pupils on these tests shall not be used by school districts or teachers for individual diagnosis or placement, or as a basis for any other decisions which would affect the pupil's school experience. Scores from these tests shall not in any manner be included on a pupil's cumulative school record.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023. Security of Test Material.**

In order to afford protection to the security and reliability of the tests given pursuant to this article, all officers and employees of the district and other persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the specific content of the tests.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023.1. Practice Exercises.**

No practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1024. Responsibility of the County Superintendent of Schools.**

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
3. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1025. Related Information.**

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code and to properly analyze and evaluate the test results as required by Sections 60604.5 and 60660 of the Education Code.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

3. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1026. Reporting Test Results.**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment filed 9-27-76; effective thirtieth day thereafter (Register 76, No. 40).
3. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer filed 11-29-84; effective thirtieth day thereafter (Register 84, No. 48).

## Article 1.5. Education Improvement Incentive Program

**§ 1030. Computation of Change in a School's Performance.**

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the Education Improvement Incentive Program and whose performance in the prior fiscal year has decreased from that in the next preceding fiscal year. All schools with a 12th grade enrollment of 50 students or fewer and all continuation education schools are excluded from the computation.

(b) The formula:

(1) Subtract the school's prior year composite score on the California Assessment Program (CAP) from the current year score to compute a change score.

(2) Regress the number of students tested in CAP and the square of the number of students tested onto the change score using a standard multiple regression procedure.

(3) Using the results of the multiple regression, compute a predicted change score.

(4) Subtract the actual change score obtained by the school from the predicted change score to obtain a residual.

(5) Studentize the residual to have a mean of zero and a standard deviation of 1.

(6) Identify those schools which have a studentized residual equal to or less than minus 1.5. A studentized residual is the ratio of the residual to its standard error after the model has been fit and predicted change scores and residuals calculated. The predicted change scores are calculated from the estimated regression equation. The residuals are calculated as actual minus predicted.

(7) For those schools identified in paragraph (6) of this subsection, the incentive award for the current year shall be based on the improvement in performance between the current year and the 1983-84 fiscal year or the fiscal year in which the school first participated in the incentive program.

(c) Any school whose incentive award is adversely affected by a calculation pursuant to subdivision (b) may appeal to the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 54653.6, Education Code. Reference: Section 54653.6, Education.

**HISTORY**

1. New section filed 5-1-87; operative 5-31-87 (Register 87, No. 20).

## Article 1.7. Award Programs Linked to the Academic Performance Index (API)

**§ 1031. Intent of the Regulations.**

(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to

Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of Article 1.7 is to implement the programs established by three statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

(3) The Academic Performance Index Schools Site Employees Performance Bonus (Section 40, Chapter 71 of the Statutes of 2000).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New article 1.7 (sections 1031-1038) and section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (b), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### **§ 1032. General Eligibility Criteria for Award Programs Related to API Growth.**

(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least the three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1), (d)(2), or (d)(4), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school.

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR and each subsequent STAR, the school's proportion of parental waivers compared to its STAR enroll-

ment is equal to or greater than 10 percent, except when the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent but less than 20 percent. In this case, the department will conduct standard statistical tests to determine whether the pupils tested at the school represent the school's pupils by grade level. If the standard statistical tests demonstrate that the pupils tested represent the school's pupils, then the school's API shall be considered valid. If the standard statistical tests demonstrate that the pupils tested do not represent the school's pupils, then the school's API shall be considered invalid. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 9.99 percent is not 10 percent).

(5) Information is made available to or obtained by the department that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(6) In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test-takers in that content area compared with the total number of test-takers is less than 85 percent. There shall be no rounding in determining the proportion of test-takers in each content area (i.e., 84.99 percent is not 85 percent).

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 or more and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schools Site Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either: 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher determines, for grades 2 to 11, that a pupil did attempt to take any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2-11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API,

although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

(i) The department will publish on its web site a report of STAR testing and demographic data used in the calculation and reporting of the API. Prior to publishing the report on its web site, the department will announce the report in writing and/or by electronic communication to each local educational agency that appears in the API report. The local educational agency must notify the department and the test publisher via e-mail or in writing whether there are errors in the STAR testing or demographic data. The local education agency's notification must be received by the department and the test publisher within thirty (30) calendar days of the initial date of publication of the STAR testing and demographic data on the department's web-site. The local educational agency must submit all data corrections to the test publisher in writing or e-mail. The test publisher shall specify a deadline for submittal of the data corrections that is no less than forty-five (45) calendar days after the date of publication of the STAR testing and demographic data.

(j) A school that had its 2000 API invalidated solely because of excessive parental waivers (subdivision (d)(4)) will be eligible for the Governor's Performance Awards based on the 2001 growth API if the school and all of its numerically significant subgroups achieve twice the growth targets associated with the school's 1999 base API and the school has met all other 2001 eligibility criteria. While being eligible for the Governor's Performance Awards, such a school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. New subsection (d)(4) and subsection renumbering filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including further amendments, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
4. Amendment of subsections (d)(4), (d)(6) and (h)(1) and new subsection (j) filed 8-2-2001 as an emergency; operative 8-2-2001 (Register 2001, No. 31). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section heading and new subsection (i) filed 11-15-2001; operative 11-15-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 46).

### § 1033. Award Funding Criteria for Governor's Performance Award Program and Academic Performance Index Schoolsite Employees Performance Bonus.

(a) Schools that meet the eligibility requirements for the Governor's Performance Award Program (GPA) shall receive the per pupil award amount for each of their eligible pupils determined as follows:

(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions.

(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).

(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to the total enrollment on the first day of testing for grades 2-11, less the number of pupils with testing irregularities, then multiplied by the school funding rate. This result, simplified to the near-

est whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based.

(4) The amount allocated per pupil shall be determined on a prorata basis from the total amount of funding available in the annual State Budget.

(b) To participate in the Academic Performance Index Schoolsite Employees Performance Bonus awards school districts, county offices of education, and charter schools shall certify the number of full-time equivalent (FTE) employees employed as of the second principal apportionment of the 1999-2000 school year at each school site under their jurisdiction that are eligible for awards in accordance with Education Code section 52057(a).

(1) The "number of full-time equivalent employees (FTE) employed as of the second principal apportionment" shall be defined as the number of funded FTE positions at the school site as of June 23, 2000.

(2) "Employees at each school site" shall be defined as positions filled by individuals employed by the school district, county office of education, or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site.

(3) "Full-time equivalent (FTE) position" shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. School districts, county offices of education, and charter schools may choose to use a longer work day in accordance with their local collective bargaining agreements. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

(4) The certification shall indicate the number of certificated and classified FTE positions at each school site. The number of certificated employees reported by the school districts, county offices of education, and charter schools shall also be used for purposes of making awards under the Certificated Staff Performance Incentive Act.

(A) "Classified employee" shall be defined as an employee not requiring certification and who meets the school site employee criteria specified in subdivision (b)(2).

(B) "Certificated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(C) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

(5) For purposes of this subdivision, the deadline for submitting the certification of FTE to the department shall be November 1, 2000 or as soon thereafter as the eligible schools are identified and no later than February 1, 2001. If certification is not received by the department by February 1, 2001, those schools will not receive either the Certificated Staff Performance Incentive Act award or the Academic Performance Index Schoolsite Employees Performance Bonus award.

(6) Starting with STAR 2001 testing, the deadline for submitting the certification of FTEs to the department shall be within 90 days of the department's posting on the website of the certified list of schools eligible to receive the Governor's Performance Award. If the schools' certification is not received by the department by the deadline, the schools will not receive the Certificated Staff Performance Incentive Act award.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (a)(3) and (b) and new subsections (b)(1)-(5) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including new subsection (b)(6), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

#### § 1034. Specific Eligibility Criteria for the Certificated Staff Performance Incentive Act.

To be eligible to receive awards under the Certificated Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(a) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(b) All numerically significant ethnic or socioeconomically disadvantaged subgroups at a school must have improved by a minimum of two times their annual growth targets, simplified to the nearest whole number (i.e., 1.51 equals 2). However, all numerically significant ethnic or socioeconomically disadvantaged subgroups with an API of 800 or above must maintain a subgroup API of 800 or above.

(c) In addition to subdivisions (a) and (b) above, each school site shall have the required participation rate for the 2000 growth API, as calculated by the department. For the 2000 growth API, each school must show improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642.

(d) The local educational agency must complete an application on behalf of their eligible schools, which shall include:

- (1) The number of eligible schools;
- (2) Certification that the data used in the API calculations from the schools is accurate; and
- (3) A list of certificated positions on an FTE basis at each of the eligible schools.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652 and 44654(b), Education Code.

##### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (d)(3), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

#### § 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) \$25,000 awards, three thousand seven hundred fifty (3,750) \$10,000 awards and up to seven thousand five hundred (7,500) \$5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE positions counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the cer-

tificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 \$25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 1,000 FTE awards pool, all of that school site's FTE positions shall receive \$25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive \$25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive \$25,000 rewards, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool of 3,750 \$10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 \$10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 3,750 FTE pool, all of that school site's FTE positions shall receive \$10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive \$10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from \$100 million, and the remainder shall be divided by \$5,000 to determine the maximum number of \$5,000 awards to be distributed. The \$5,000 awards shall be distributed in the same manner as the \$25,000 and the \$10,000 awards, with the exception that the distribution process will end when the pool of available \$5,000 awards is not sufficient to fully fund the eligible FTE positions of the next school or schools in line for the awards.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

##### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of NOTE (Register 2001, No. 4).
3. Amendment of subsections (d) and (g) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including further amendments, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

#### § 1036. Staff Eligibility for Individual Awards.

(a) The Academic Performance Index Schoolsite Employees Performance Bonus shall be allocated to individuals and to the school site. Funds shall be distributed to the school site for those individuals who worked at the school site for the school year for which the growth API was calculated. These bonuses shall be distributed on an FTE basis to employees assigned to the school site. Staff who were employed at a school site part-time or for less than the full school year shall have their awards pro-rated on a per FTE basis, as determined by the local educational agency contract.

(b) For the purpose of the Certificated Staff Performance Incentive Act awards, "certificated staff" include those certificated staff employed at

the school site in certificated positions for the school year and certificated staff that were employed at the school site part-time or for less than the full school year for which the growth API was calculated. Except as otherwise provided through bargaining unit negotiations pursuant to Education Code section 44653, certificated staff employed at a school site part-time or for less than the full school year shall have their award allocations pro-rated on an FTE basis.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44650, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (a), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1037. Exemption from Statutory Benefits Calculations.

Academic Performance Index Schoolsite Employees Performance Bonus awards and Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1038. Exemption from Indirect Costs.

Governor's Performance Awards, Academic Performance Index Schoolsite Employees Performance Bonus awards, and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code; and Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 1038 to section 1039 and new section 1038 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including amendment of NOTE, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

### § 1039. Use of Award Funds Allocated to School Sites.

Use of funds at the school site for the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 40, Chapter 71 of the Statutes of 2000.

#### HISTORY

1. Renumbering of former section 1038 to section 1039 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-30-2001 order transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

## Article 2. Physical Performance Testing Programs

### § 1040. Definition of "Pupil."

NOTE: Authority cited: Sections 60601 and 60603, Education Code.

#### HISTORY

1. Repealer filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

### § 1041. Required Program.

During the period of March-May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

NOTE: Authority cited: sections 33031 and 60603, Education Code. Reference: Sections 60602(c), 60603 and 60608, Education Code.

#### HISTORY

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 5-18-72; effective thirtieth day thereafter (Register 72, No. 21).
3. Amendment filed 5-11-89 and 5-15-89; operative 5-15-89 (Register 89, No. 20).

### § 1042. Recommended Program.

When adequate facilities are available, tests pursuant to this article may be given more often than once yearly.

### § 1043. Methods of Administration.

The tests shall be scored by employees of the district or the employees of the county superintendent of schools. The scoring thereof shall be in compliance with the instructions of the publisher or developer for scoring, and the scores shall be submitted to the governing board of the school district on the dates required by, and on forms prescribed or approved by, such governing board.

### § 1044. Recording Test Scores.

The district superintendent or the county superintendent of schools, as the case may be, shall require that the pupil's scores on each of the tests given him in the physical performance testing program be included in the pupil's cumulative record. This requirement may be met by maintaining the regular physical performance testing program card with the cumulative record form.

### § 1045. Responsibility of County Superintendent of Schools.

As soon as possible after the State Board of Education, pursuant to subdivision (d) of Education Code Section 60603, has designated the physical performance test to be used during the ensuing school year in any grade, the county superintendent of schools shall secure, and until the close of the school year for which the test was designated, shall keep on file for reference purposes, a specimen set of that test.

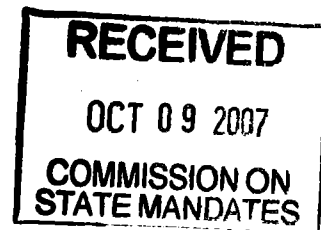
The county superintendent of schools shall provide assistance to school districts in administering, recording, and reporting results of, the test.

#### HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

### § 1046. Use of Reports.

The governing board of each school district shall use the reports of test scores submitted as required in this article for identifying physically underdeveloped pupils adapting instruction to individual needs, appraising pupil progress, adapting the physical education program to meet pupil needs and for such other purposes as may be permitted or required by law.



Register 02-02

§§ 1031-1039

**HISTORY**

1. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 74, No. 52.
2. Repealer and new section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1022. Recording Test Scores.**

Scores for individual pupils on these tests shall not be used by school districts or teachers for individual diagnosis or placement, or as a basis for any other decisions which would affect the pupil's school experience. Scores from these tests shall not in any manner be included on a pupil's cumulative school record.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023. Security of Test Material.**

In order to afford protection to the security and reliability of the tests given pursuant to this article, all officers and employees of the district and other persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the specific content of the tests.

**HISTORY**

1. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).

**§ 1023.1. Practice Exercises.**

No practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1024. Responsibility of the County Superintendent of Schools.**

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
3. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1025. Related Information.**

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code and to properly analyze and evaluate the test results as required by Sections 60604.5 and 60660 of the Education Code.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600-60614 and 60640-60644, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

3. Amendment filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48).

**§ 1026. Reporting Test Results.**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

**HISTORY**

1. New section filed 12-26-74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment filed 9-27-76; effective thirtieth day thereafter (Register 76, No. 40).
3. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer filed 11-29-84; effective thirtieth day thereafter (Register 84, No. 48).

## Article 1.5. Education Improvement Incentive Program

**§ 1030. Computation of Change in a School's Performance.**

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the Education Improvement Incentive Program and whose performance in the prior fiscal year has decreased from that in the next preceding fiscal year. All schools with a 12th grade enrollment of 50 students or fewer and all continuation education schools are excluded from the computation.

(b) The formula:

(1) Subtract the school's prior year composite score on the California Assessment Program (CAP) from the current year score to compute a change score.

(2) Regress the number of students tested in CAP and the square of the number of students tested onto the change score using a standard multiple regression procedure.

(3) Using the results of the multiple regression, compute a predicted change score.

(4) Subtract the actual change score obtained by the school from the predicted change score to obtain a residual.

(5) Studentize the residual to have a mean of zero and a standard deviation of 1.

(6) Identify those schools which have a studentized residual equal to or less than minus 1.5. A studentized residual is the ratio of the residual to its standard error after the model has been fit and predicted change scores and residuals calculated. The predicted change scores are calculated from the estimated regression equation. The residuals are calculated as actual minus predicted.

(7) For those schools identified in paragraph (6) of this subsection, the incentive award for the current year shall be based on the improvement in performance between the current year and the 1983-84 fiscal year or the fiscal year in which the school first participated in the incentive program.

(c) Any school whose incentive award is adversely affected by a calculation pursuant to subdivision (b) may appeal to the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 54653.6, Education Code. Reference: Section 54653.6, Education.

**HISTORY**

1. New section filed 5-1-87; operative 5-31-87 (Register 87, No. 20).

## Article 1.7. Award Programs Linked to the Academic Performance Index (API)

**§ 1031. Intent of the Regulations.**

(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to



Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of Article 1.7 is to implement the programs established by two statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New article 1.7 (sections 1031-1038) and section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (b), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).

3. Amendment of subsection (b), repealer of subsection (b)(3) and amendment of NOTE filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

### § 1032. General Eligibility Criteria for Award Programs Related to API Growth.

(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in the award programs identified in Section 1031.

(b) For the purposes of these award programs, the API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system, once such a system is adopted by the State Board of Education as required by Education Code section 52052(g). The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, schools that fall under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least the three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated.

(d) In 2001 and subsequent years, a school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school affecting 5% or more of the pupils tested.

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR and each subsequent STAR, the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent, except when the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent but less than 20 percent. In this case, the department will conduct standard statistical tests to determine whether the pupils tested at the school represent the school's pupils by grade level. If the

standard statistical tests demonstrate that the pupils tested represent the school's pupils, then the school's API shall be considered valid. If the standard statistical tests demonstrate that the pupils tested do not represent the school's pupils, then the school's API shall be considered invalid. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 9.99 percent is not 10 percent).

(5) In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test-takers in that content area compared with the total number of test-takers is less than 85 percent. There shall be no rounding in determining the proportion of test-takers in each content area (i.e., 84.99 percent is not 85 percent).

(6) If, at any time, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the preceding circumstances occurred. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

The department may invalidate or withhold the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(e) If a school's API is considered invalid pursuant to subdivisions (d)(1), (d)(2), (d)(4), or (d)(5), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(f) If fewer than 5% of the pupils tested are affected by adult testing irregularities, the school will receive a valid API, however, the school is not eligible for participation in any of the award programs for the current year.

(g) All schools that have an API score increase of at least 5% of the difference between the school's prior year score and 800 or an API score increase of five points, whichever is greater, and have comparable improvement as defined in subdivision (h), and meet the minimum participation rate in subdivision (i), shall be recognized through the Governor's Performance Award Program.

(h) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as an API score increase of at least 80% of the school's API growth target as established pursuant to Education Code section 52052 except when the sum of a subgroup's growth target and the subgroup's API is greater or equal to 800. In these cases, comparable improvement shall be defined as the distance from the subgroup's API to 800. In no case shall comparable improvement be less than 4 points.

(i) For elementary and middle schools, the minimum participation rate for the awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher determines, for grades 2 to 11, that a pupil did attempt to take any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2-11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.



(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

(j) The department will publish on its web site a report of STAR testing and demographic data used in the calculation and reporting of the API. Prior to publishing the report on its web site, the department will announce the report in writing and/or by electronic communication to each local educational agency that appears in the API report. The local educational agency must notify the department and the test publisher via e-mail or in writing whether there are errors in the STAR testing or demographic data. The local educational agency's notification must be received by the department and the test publisher within thirty (30) calendar days of the initial date of publication of the STAR testing and demographic data on the department's web-site. The local educational agency must submit all data corrections to the test publisher in writing or e-mail. The test publisher shall specify a deadline for submittal of the data corrections that is no less than forty-five (45) calendar days after the date of publication of the STAR testing and demographic data.

(k) The criteria for awards eligibility based on the 2001 growth API for a school that had its 2000 API invalidated solely because of excessive parental waivers pursuant to subdivision (d)(4) or for a school whose school district obtained a State Board of Education waiver of Section 1032(c) on their behalf will be (1) twice the school's 1999 growth target or 10 points, whichever is greater, and (2) comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a), and the school has met all other 2001 eligibility criteria. Comparable improvement shall be defined as twice the 1999 subgroup target for each subgroup, except when the sum of a subgroup's 1999 growth target and the subgroup's 1999 API is greater than or equal to 800. In these cases, comparable improvement shall be defined as two times the distance from the subgroup's 1999 API to 800. In no case shall comparable improvement be less than 8 points. While being eligible for the Governor's Performance Awards, such a school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. New subsection (d)(4) and subsection renumbering filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including further amendments, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
4. Amendment of subsections (d)(4), (d)(6) and (h)(1) and new subsection (j) filed 8-2-2001 as an emergency; operative 8-2-2001 (Register 2001, No. 31). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section heading and new subsection (i) filed 11-15-2001; operative 11-15-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 46).
6. Certificate of Compliance as to 8-2-2001 order, including further amendment of section and NOTE, transmitted to OAL 11-21-2001 and filed 1-8-2002 (Register 2002, No. 2).

### § 1033. Award Funding Criteria for Governor's Performance Award Program.

(a) Schools that meet the eligibility requirements in 2000-01 for the Governor's Performance Award Program (GPA) shall receive a per pupil award amount for each of their eligible pupils. Eligible pupils are those who received a score on any subject matter area test (Total Reading, Total

Math, Language, Spelling, Science, or Social Science) of the nationally normed test pursuant to Education Code section 60642 and a score on any standards-based achievement test pursuant to Education Code section 60642.5. A score on the nationally normed test pursuant to Education Code section 60642 can be a percentile, the number correct, a scale score, or a normal curve equivalent. A score on the standards-based achievement test pursuant to Education Code section 60642.5 is defined as the performance level.

(b) The amount allocated for this award shall be determined on a prorata basis from the total amount of funding available in the annual State Budget.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (a)(3) and (b) and new subsections (b)(1)-(5) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including new subsection (b)(6), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
4. Amendment of section heading and subsection (a), repealer of subsections (a)(1)-(3), redesignation and amendment of former subsection (a)(4) as subsection (b), renumbering of former subsections (b)-(b)(6) to section 1034, subsections (b)-(c) and new NOTE filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

### § 1034. Specific Eligibility Criteria for the Certified Staff Performance Incentive Act.

(a) To be eligible to receive awards under the Certified Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(1) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(2) All numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) at a school must have improved by a minimum of two times their annual growth targets, except when the sum of a subgroup's growth target and the subgroup's API is greater than or equal to 800. In these cases, comparable improvement shall be defined as two times the distance from the subgroup's API to 800. In no case shall comparable improvement be less than 8 points.

(3) Each school site shall have the required participation rate for the current growth API, pursuant to Section 1032(i), as calculated by the California Department of Education. Each school must have been eligible for API awards in the year preceding the current API growth year.

(4) The local educational agency must complete an application on behalf of its eligible schools, which shall include:

(A) Certification that the data used in the API calculations from the schools is accurate, and

(B) The number of certificated positions on an FTE basis at each of the eligible schools pursuant to subdivision (b) below.

(b) To participate in the Certificated Staff Performance Incentive Act (CSPIA) awards, school districts and charter schools shall certify, as appropriate, the number of full-time equivalent (FTE) certificated employees employed by the school district or charter school, whether still resident in the school district or not, as of the second principal apportionment for the year in which the award was earned at each school site under their jurisdiction that is eligible for awards in accordance with Education Code section 44651.

(1) The "number of full-time equivalent (FTE) certificated employees employed by the school district or charter school, whether still resident in the school district or not, as of the second principal apportionment"

shall be defined as the number of funded certificated FTE positions at the school site as of the date established annually by the department pursuant to Education Code sections 41335 and 41601 for the submission by school districts of the attendance documents necessary for the department to prepare the second principal apportionment.

(2) "Employees at the school site" shall be defined as positions filled by individuals employed by the school district or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site working with pupils in any of grades K-12. County office of education and state employees are not eligible to participate.

(3) "Full-time equivalent (FTE) positions" may include "full-time" and "part-time" positions. A "full-time" certificated position shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. Workdays longer than six hours, if in accordance with local collective bargaining agreements, should be used as the basis for "full-time" and "part-time" FTE calculation. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

(4) "Certificated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(5) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

(c) Starting in 2001-02, the deadline for submitting the application, including the certification of FTEs to the department shall be within the close of business on the 45th calendar day after the department's posting on its website of the certified list of schools eligible to receive the Certificated Staff Performance Incentive Act award. If a school's application is not received by the department by the deadline, the school will not receive the award.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652 and 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (d)(3), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
3. Repealer of former section 1034, new subsections (a)-(a)(4)(B), and renumbering and amendment of former section 1033, subsections (b)-(b)(6) to section 1034, subsections (b)-(c) filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

### § 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) \$25,000 awards, three thousand seven hundred fifty (3,750) \$10,000 awards and up to seven thousand five hundred (7,500) \$5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff in certificated positions at that school. The number of

FTE positions counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 \$25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 1,000 FTE awards pool, all of that school site's FTE positions shall receive \$25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement over its API growth target in the prior year shall receive \$25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive \$25,000 rewards, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool of 3,750 \$10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 \$10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 3,750 FTE pool, all of that school site's FTE positions shall receive \$10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement over its API growth target in the prior year shall receive \$10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from \$100 million, and the remainder shall be divided by \$5,000 to determine the maximum number of \$5,000 awards to be distributed. The \$5,000 awards shall be distributed in the same manner as the \$25,000 and the \$10,000 awards, with the exception that the distribution process will end when the pool of available \$5,000 awards is not sufficient to fully fund the eligible FTE positions of the next school or schools in line for the awards.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of NOTE (Register 2001, No. 4).
3. Amendment of subsections (d) and (g) filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including further amendments, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
5. Amendment of subsections (d) and (g) filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

### § 1036. Waiver Deadline.

Starting in 2000-01, the deadline for submitting to the department a waiver of any of Sections 1031 through 1039 shall be no later than the close of business on the 60th calendar day after the department's posting on its website of the certified list of schools eligible to receive the Governor's Performance Award.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Sections 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (a), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
3. Amendment of section heading, repealer and new section and amendment of NOTE filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

#### § 1037. Exemption from Statutory Benefits Calculations.

Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
3. Amendment filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

#### § 1038. Exemption from Indirect Costs.

Governor's Performance Awards and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

#### HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 1038 to section 1039 and new section 1038 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including amendment of NOTE, transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
4. Amendment of section and NOTE filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

#### § 1039. Use of Award Funds Allocated to School Sites.

Use of funds at the school site for the Governor's Performance Award Program shall be decided by the existing school site governance team/ school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Sections 52052 and 52057, Education Code.

#### HISTORY

1. Renumbering of former section 1038 to section 1039 filed 1-30-2001 as an emergency; operative 1-30-2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-30-2001 order transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
3. Amendment of section and NOTE filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

## Article 2. Physical Performance Testing Programs

#### § 1040. Definition of "Pupil."

NOTE: Authority cited: Sections 60601 and 60603, Education Code.

#### HISTORY

1. Repealer filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

#### § 1041. Required Program.

During the period of March-May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

NOTE: Authority cited: sections 33031 and 60603, Education Code. Reference: Sections 60602(c), 60603 and 60608, Education Code.

#### HISTORY

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 5-18-72; effective thirtieth day thereafter (Register 72, No. 21).
3. Amendment filed 5-11-89 and 5-15-89; operative 5-15-89 (Register 89, No. 20).

#### § 1042. Recommended Program.

When adequate facilities are available, tests pursuant to this article may be given more often than once yearly.

#### § 1043. Methods of Administration.

The tests shall be scored by employees of the district or the employees of the county superintendent of schools. The scoring thereof shall be in compliance with the instructions of the publisher or developer for scoring, and the scores shall be submitted to the governing board of the school district on the dates required by, and on forms prescribed or approved by, such governing board.

#### § 1044. Recording Test Scores.

The district superintendent or the county superintendent of schools, as the case may be, shall require that the pupil's scores on each of the tests given him in the physical performance testing program be included in the pupil's cumulative record. This requirement may be met by maintaining the regular physical performance testing program card with the cumulative record form.

#### § 1045. Responsibility of County Superintendent of Schools.

As soon as possible after the State Board of Education, pursuant to subdivision (d) of Education Code Section 60603, has designated the physical performance test to be used during the ensuing school year in any grade, the county superintendent of schools shall secure, and until the close of the school year for which the test was designated, shall keep on file for reference purposes, a specimen set of that test.

The county superintendent of schools shall provide assistance to school districts in administering, recording, and reporting results of, the test.

#### HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

#### § 1046. Use of Reports.

The governing board of each school district shall use the reports of test scores submitted as required in this article for identifying physically underdeveloped pupils adapting instruction to individual needs, appraising pupil progress, adapting the physical education program to meet pupil needs and for such other purposes as may be permitted or required by law.

## Article 3. Reading Testing Programs in Grades 1, 2, and 3

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60604, 60640, Education Code. Reference: Sections 60640-60644, Education Code.

#### HISTORY

1. Repealer of Article 3 (Sections 1050-1060) filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48). For prior history, see Registers 77, No. 39,